

STATEMENT OF CONSIDERATION  
Relating to 401 KAR 10:026  
Not Amended After Comments

I. The public hearing on 401 KAR 10:001, 10:029, 10:030 and 10:031, scheduled for September 27, 2012, at 5 p.m. at 300 Fair Oaks Lane, Conference Room 301D, Frankfort, Kentucky, was held; several members of the public did attend this public hearing, including Mr. Hank Graddy (Sierra Club), Mindy Scott, (Northern Kentucky Sanitation District #1), Chad Harpole (Kentucky Chamber of Commerce), Lloyd Cress (Kentucky Coal Association), Larinda Tervelt and Annie Godfrey (U.S. EPA Region 4). Mr. Hank Graddy, (Cumberland Chapter of the Sierra Club), provided verbal comments. Written comments were also received regarding these administrative regulations.

II. The following people submitted written comments regarding this administrative regulation:

<u>Name and Title</u>	<u>Agency/Organization/Entity, Other</u>
Mr. Hank Graddy	Cumberland Chapter of the Sierra Club
Tim Joice	Water Policy Director, Kentucky Waterways Alliance
C. Gregory Higdon	Kentucky Association of Manufacturers

III. The following people from the promulgating administrative body responded to the written comments:

<u>Name and Title</u>
Peter Goodmann, Assistant Director
Randall Payne, Environmental Scientist III

IV. Summary of Comments and Responses

401 KAR 10:026

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| (1) | Subject Matter:   | Support additional Outstanding State Resource Waters   |
|     | (a) Commenter(s): | Tim Joice, Kentucky Waterways Alliance<br>Hank Grady, W. H. Grady & Associates, Sierra Club  |
|     | Comment:          | KWA and the Sierra Club support the addition of 27 new Outstanding State Resource Waters (OSRW).   |
|     | (b) Response:     | The cabinet acknowledges the support for the 27 candidate OSRW water bodies proposed in 401 KAR 10:026.  |
| (2) | Subject Matter:   | Justification to support an OSRW designation   |
|     | (a) Commenter(s): | C. Gregory Higdon, Kentucky Association of Manufactures  |
|     | Comment:          | KAM is not aware of supporting documentation for the addition of the OSRW designation the Tennessee River from (river mile 12.0 [approximately 0.4 mile above Mud Creek] to 22.8 [Kentucky Lake Dam] in Livingston and Marshall counties). |

(b) Response: The cabinet is not proposing to amend this regulation to add an OSRW; this OSRW segment was promulgated in a previous amendment to 401 KAR 10:026. To be as accurate as possible, the agency is proposing to amend this regulation to update the segment river mile points to reflect the revised, current National Hydrography Dataset information in this triennial review. The narrative justification for this segment was provided in the agency's current regulatory package presented for public review and comment.

#### IV. Summary of the Statement of Consideration and Action Taken by Promulgating Administrative Body

The public hearing on 401 KAR 10:026 was convened; several members of the public attended this public hearing, and one individual provided verbal comments. Written comments were also received regarding this administrative regulation. The cabinet is not proposing amendments to this regulation in response to public comments.